



WASHOE COUNTY

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CM/ACM	_____
Finance	_____
DA	_____
Risk Mgt.	<u>N/A</u>
HR	<u>N/A</u>
Other	<u>N/A</u>

STAFF REPORT BOARD MEETING DATE: May 24, 2016

DATE: May 16, 2016

TO: Board of County Commissioners

FROM: Kevin Schiller, Assistant County Manager
328-2008, kschiller@washoecounty.us

THROUGH: John Slaughter, County Manager,
328-2060, jslaughter@washoecounty.us

SUBJECT: Request to approve the relocation of a medical marijuana dispensary within unincorporated Washoe County pursuant to section 3 of Senate Bill Number 276 as signed into law on June 9, 2015. The request is from Washoe Dispensary, LLC to move a medical marijuana dispensary from the location issued a State of Nevada provisional medical marijuana certificate at 290 S. U.S. Highway 395 (APN 050-220-34) to 275 S. U.S. Highway 395 (APN 046-080-04). If approved, direct staff to notify the State of Nevada Division of Public and Behavioral Health in writing of the Board's approval of the relocation request. (Commission District 2)

SUMMARY

Request to approve the relocation of a medical marijuana dispensary within unincorporated Washoe County pursuant to section 3 of Senate Bill Number 276 as signed into law on June 9, 2015. The request is from Washoe Dispensary, LLC to move a medical marijuana dispensary from the location issued a State of Nevada provisional medical marijuana certificate at 290 S. U.S. Highway 395 (APN 050-220-34) to 275 S. U.S. Highway 395 (APN 046-080-04). If approved, direct staff to notify the State of Nevada Division of Public and Behavioral Health in writing of the Board's approval of the relocation request. (Commission District 2)

Washoe County Strategic Objective: Proactive Economic development and diversification.

PREVIOUS BOARD ACTION

On May 13, 2014, the Board discussed a request by the City of Reno to increase the City's medical marijuana dispensary allocation. The County Commissioners stated that it was premature at this time to consider increasing any one local government jurisdiction's allocation of dispensaries and the Commission would consider the matter at a future date when appropriate. The Board of County Commissioners continued the item on June 17, 2014.

On June 24, 2014 the Board received an update and approved an ongoing process for updates from staff including a process to review potential dispensary locations within the County related to future action on dispensary allocation.

The Board received an update on July 8, 2014 and approved the continued process to review potential dispensary locations within the County related to future action on dispensary allocation, and requested a presentation on process for applicants.

The Board received an update on July 22, 2014 and approved the continued process to review potential dispensary locations within the County related to future action on dispensary allocation.

On August 12, 2014 the Board took action to direct staff to notify the State of Nevada of the request for an allocation of five dispensaries for Washoe County, three for the City of Reno, and two for the City of Sparks.

The Board of County Commissioners received an update on December 9, 2014 on medical marijuana establishment regulations and processes for the State of Nevada and for unincorporated Washoe County.

On July 14, 2015, the Board directed staff to contact the State of Nevada, Division of Public and Behavioral Health to request that the State issue a provisional registration certificate to the sixth ranked medical marijuana dispensary pursuant to the provisions of Senate Bill 276. The Board also discussed the public review process for future MME location changes as outlined in Senate Bill 276.

On September 22, 2015 the Board directed staff to amend Washoe County Code Chapter 25 to for compliance with State Law changes resulting from the 2015 Nevada State Legislative Session.

On December 8, 2015 the board received a presentation and gave direction to staff on Recreational Marijuana Establishments and related matters in Washoe County; and acknowledged an update on Medical Marijuana Establishments and provided direction to staff on related matters within unincorporated Washoe County.

On January 26, 2016 the BCC approved the request for the relocation of a medical marijuana dispensary from 10 Stateline Road in Crystal Bay to 5105 Sun Valley Boulevard within unincorporated Washoe County pursuant to section 3 of Senate Bill Number 276 as signed into law on June 9, 2015.

BACKGROUND

During the 2015 Legislative Session, Senate Bill 276 was passed amending NRS 453A. The bill was signed into law and was effective on June 9, 2015. NRS.453A.350 (3) enables a medical marijuana dispensary with a current State provisional registration certificate to request a move to another qualified location within unincorporated Washoe County. The Board may approve the move at a public meeting for which notice in writing is provided 7 working days prior to the approval. Staff is requesting direction on a process for approval of any requested moves from existing locations by an applicant.

NRS 453A.350(3) "A medical marijuana establishment may move to a new location under the jurisdiction of the same local government as its original location regardless of the distance from original location if the operation of the medical marijuana establishment at the new location has been approved by the local government. A local government may approve a new location pursuant to this subsection only in a public hearing for which written notice is given at least 7 working days before the hearing."

Washoe Dispensary, LLC has requested a move from the currently approved location issued a State of Nevada provisional medical marijuana certificate at 290 S. U.S. Highway 395 (APN 050-220-34) to 275 S. U.S Highway 395 (APN 046-080-04). The newly requested location meets all County required regulatory zoning requirements pursuant to Washoe County Code (WCC) Chapter 25 (Business License Ordinance) and Chapter 110 (Development Code) as amended in April 2014 to regulate Medical Marijuana Establishments (MME) in unincorporated Washoe County. In addition, Healing Gardens Inc. currently has a State provisional certificate approved cultivation facility for 275 South Hwy 395, and Sensible Edibles Inc. has a provisional certificate approved for a production facility at 275South Hwy 395. Per previous direction from the Board, a public meeting was scheduled and held as follows:

- Location:** Washoe Valley Community Meeting
March 2, 2016
5:30 – 6:30 pm
Washoe County South Valleys Library
15650 Wedge Parkway, Reno, Nevada 89511
- Panel:** Ed Alexander, and Manuel Martinez representing Washoe Dispensary, LLC, Neil Duxbury representing, Healing Gardens, Inc., and Sensible Edibles, Inc., and Kevin Schiller, Assistant County Manager.
- Attendees:** 30 residents, plus applicant representatives and staff from Office of the County Manager, Community Services Department, Truckee Meadows Fire Protection District and Washoe Sheriff's Office

Notice: Noticing for the Neighborhood Meeting used the regulatory process outlined for special use permit as a guideline for noticing. In addition staff distributed information in county news email system, Washoe County Website and through local partners. Washoe County notified 190 residents by postcard, increased distribution through county news email distribution and notification to local citizen advisory board members.

Resident Concerns:

Resident concerns surrounded the increase in the total number of medical marijuana facilities in Washoe Valley and their impact on culture of the community as it relates to children, traffic and public safety. Specific questions and statements included:

- Financial viability of the new business and their contributions to the community
- Impact on Old US Highway 395 that will add additional traffic and surrounding traffic concerns in neighboring streets
- Process for obtaining a Medical Marijuana patient card and the potential for loop holes for individuals not in need
- Concerns regarding the location next to a residential neighborhood
- Safety and security concerns related to medical marijuana dispensaries in general and specifically access to large amounts of cash and marijuana plants
- Implications of moving from medical to recreation marijuana use
- Location of school bus stops in proximity to medical marijuana facilities
- Concerns related to combining cultivation, production and dispensary facilities and the combined impact on the community
- Environmental concerns related to water, erosion control and pesticide use
- Notification process for neighborhood meetings. Expressed that notification cards should have gone to all of Washoe Valley
- Concerns that the medical marijuana dispensary is not in compliance with the Area Plan

Additional meetings following the neighborhood advisory meeting were held with interested residents in small group and one on one basis (total of 3 small groups, 1 site visit and multiple individual meetings). Comments surrounded concerns regarding medical marijuana facilities as a whole and the outreach process to residents. The concerns included citing multiple applications in the Washoe Valley, Old Washoe City area for medical marijuana dispensaries, production and cultivation facilities and their effect on the community culture, safety concerns, traffic and increase in access/visibility for children. Representatives also expressed that they felt the medical marijuana use did not comply with the area plan.

The panel addressed general questions on the delivery of products, security, employment requirements, local review and State review processes specific to all regulations.

Area Plan Concerns

As noted specific community concerns were brought forward regarding compliance with the South Valles Area Plan. Community members suggested that medical marijuana Dispensaries were disallowed within the South Valley Area Plan as outlined within the Old Washoe City Historic District Character Management Area. In response, the area plan policy establishing Allowed Uses in the Old Washoe City Historic District Character Management Area states that the “permitted” uses only apply in the Neighborhood Commercial and General Rural regulatory zone (SV.8.2 and Appendix A, Table 2). Legal counsel believes this is an error in the text, given that the table clearly outlines uses in the General Commercial (GC) and Neighborhood Commercial (NC) regulatory zones. However, this table was last updated in September of 2010 and does not include residential, civic, commercial, industrial, or agricultural use types added to the Development Code after that date.

The Development Code was amended in April of 2014 to add medical marijuana facilities as a commercial use type. There is no text in the area plan prohibiting any future use type, and the area plan table specifically enables the Director of the Planning and Development Division to permit other similar uses in the Old Washoe City Historic District Character Management Area provided that the uses are similar in nature and impact to the uses listed in the table, and is consistent with the community character as described in the area plan. The area plan encourages mixed use development (Policy SV.9.1), and specific to the West Washoe Valley community as described in the Character Statement states that “Washoe County will encourage and promote a mix of uses in this area that provide quality services to local residents and support the growing needs of visitors to the valley”.

Given that the medical marijuana establishment (MME) commercial use type was added to code after the area plan was adopted, and there are no policies specifically prohibiting new uses within the South Valleys Area Plan, staff and legal counsel agree that the MME commercial use type may be located within the Old Washoe City Historic District Character Management Area provided that the nature and impacts of the MME commercial use type is similar to other commercial uses allowed within the Area. For example, the following commercial use types are allowed within the Area: Administrative Offices, Veterinary Services, Neighborhood Commercial Centers (i.e., small shopping centers), Eating and Drinking Establishments, Gasoline Sales and Service Stations, Off-Premise Liquor Sales, Retail and Wholesale Nursery Sales, Consumer Repair Services, and Retail Convenience Stores. Given that public access to any medical marijuana dispensary is strictly limited to patients with medical marijuana cards, the impacts associated with a medical marijuana dispensary are similar and in some cases less than the other commercial uses allowed within the Area.

Lastly, State Law was amended in 2013 to enable medical marijuana establishments, and the Board took both policy and code actions in 2014 to establish MMEs as commercial use types in unincorporated Washoe County. An area plan cannot supersede State Law, and the Board has not updated the South Valleys Area Plan since 2013 and 2014 to determine the policy question of whether MME commercial uses types should or should not be included within the area plan or any character management area. Until that policy

discussion occurs and the area plan is appropriately amended, the MME commercial use type as regulated in the Development Code is allowed within the South Valleys planning area.

Washoe Dispensary, LLC has outlined their commitment to providing a sustainable business within the Washoe Valley area with a commitment to the local community to include addressing impacts and supporting continued growth to the neighboring areas.

FISCAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDATION

It is recommended that the Washoe County Board of County Commissioners approve the request to move a medical marijuana dispensary within unincorporated Washoe County pursuant to section 3 of Senate Bill Number 276 as signed into law on June 9, 2015. The request is from Washoe Dispensary, LLC to move a medical marijuana dispensary from the location issued a State of Nevada provisional medical marijuana certificate at 290 S. U.S. Highway 395 (APN 050-220-34) to 275 S. U.S Highway 395 (APN 046-080-04). If approved, direct staff to notify the State of Nevada Division of Public and Behavioral Health in writing of the Board's approval of the relocation request.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

"Move to approve the move of a medical marijuana dispensary within unincorporated Washoe County pursuant to section 3 of Senate Bill Number 276 as signed into law on June 9, 2015. The request is from Washoe Dispensary, LLC to move a medical marijuana dispensary from the location issued a State of Nevada provisional medical marijuana certificate at 290 S. U.S. Highway 395 (APN 050-220-34) to 275 S. U.S Highway 395 (APN 046-080-04). Further, move to direct staff to notify the State of Nevada Division of Public and Behavioral Health in writing of the Board's approval of the relocation request."